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DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of
Robert W. Baldwin, Jean-Paul
Abgrall, John D. Barr, Jose A.
Casillas, David P. Jablon,
Timothy J. Markey, Pannaga Kotla,
David Pitard, Kai Wang, Steven D.
Williams
Application No. 09/829,074
Filed: April 9, 2001
Attorney Docket No. 155607-0351

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: DECISION ON PETITIONS
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This is a decision on the petition to correct inventorship under 37 CFR 1.48(a), and the petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.64, both filed on March 3, 2003. Petitioner has enclosed \$260, which covers the processing fees for consideration of each petition.

The petition under 37 CFR 1.183 is GRANTED.

The petition under 37 CFR 1.48(a) is GRANTED.

The above-identified application was filed on April 9, 2001 with a declaration executed by Robert W. Baldwin, Jean-Paul Abgrall, John D. Barr, Jose A. Casillas, David P. Jablon, Timothy J. Markey, Pannaga Kotla, Kai Wang, and Steven D. Williams as joint inventors. On March 3, 2003, the instant petition under 37 CFR 1.48(a) was filed to amend the inventorship to add joint inventor David Pitard.

37 CFR 1.48(a) requires:

- (1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (2), (4) and (5) above. The petition specifically requests the addition of inventor David Pitard. Petitioner has included the required statement from Pitard. Petitioner has paid the processing fee. Finally, the petition includes a statement signed by Linda V. Moore, Senior Vice President and General Counsel of assignee Phoenix Technologies, Ltd.

However, petitioner has not submitted a 37 CFR 1.63 declaration executed by all of the inventors as required by 37 CFR 1.48(a)(3). The 37 CFR 1.63 declaration was not executed by inventors Abgrall and Kotla. In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules. In the "Declaration of Jonathan Lindsay in Support of Petition Under 37 CFR 1.48(a)", petitioner attested that copies of the corrected declaration were forwarded to Abgrall and Kotla. The corrected declaration was received by Abgrall (as evidenced by a Certified Mail receipt), but never returned. The copy sent to Kotla was returned to sender. Thereafter, an unsuccessful attempt was made to locate Kotla, as evidenced by copies of internet search results.

Accordingly, the newly executed declaration filed on March 3, 2003 will be entered, despite the fact that the requirement set forth in 37 CFR 1.48(a)(3) that all the inventors sign a reexecuted oath or declaration has not been satisfied.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2134 for examination in due course.

Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.



Charles Pearson
Director
Office of Petitions

Enc: corrected filing receipt (2 pages)